

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

Kathy Henderson,)	
Challenger)	Administrative
)	Order #20-014
)	
v.)	Re: Nominating Petition
)	Challenge for the Office of
)	Advisory Neighborhood
Sebrena Rhodes,)	Commissioner for SMD 5D01
Candidate)	

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the District of Columbia Board of Elections (“the Board”) on September 2, 2020. It is a challenge to the nominating petition submitted by Sebrena Rhodes (“Ms. Rhodes”) in support of her candidacy for the Office of Advisory Neighborhood Commissioner for Single Member District 5D01, filed by Kathy Henderson (“Ms. Henderson”) pursuant to D.C. Code § 1-1001.08(o)(1) (2001 Ed.). Ms. Henderson and Ms. Rhodes appeared *pro se*. Chairman D. Michael Bennett, Board members Michael Gill and Karyn Greenfield presided over the hearing.

Background

On July 27, 2020, Ms. Rhodes submitted a nominating petition to appear on the ballot as a candidate in the November 3, 2020 General Election for the office of Advisory Neighborhood Commissioner (ANC) for the Single Member District (SMD) 5D01. The minimum requirement to obtain ballot access for this office is 10 signatures of District of Columbia voters, who are duly registered in the same SMD as the Candidate. Ms. Rhodes’s petition contained 20 signatures. Pursuant to 3 D.C.M.R. § 1603.1, Karen F. Brooks (“Ms. Brooks”), the Board of Elections’ Registrar of Voters (“the Registrar”), accepted 20 signatures for review.

On August 8, 2020, the Petition was posted for public inspection for 10 days, as required by D.C. Official Code § 1-1001.08(o)(1). On August 17, 2020, the Petition was challenged by Ms. Henderson, a registered voter in the District of Columbia. On August 19, 2020, Office of the General Counsel (“OGC”) Staff Attorney Terrica Jennings (“Ms. Jennings”), sent Ms. Rhodes an email informing her that Ms. Henderson had filed a challenge to her Petition.

Ms. Henderson filed challenges to 16 signatures on the Petition, enumerated by line and page number on individual “challenge sheets” filed for each petition page. The signatures were challenged pursuant to 3 D.C.M.R. § 1607.1 of the Board’s regulations on the following grounds: the signer’s voter registration was designated as inactive on the voter roll at the time the petition was signed; the signer, according to the Board’s records, is not registered to vote at the address listed on the petition at the time the petition was signed; the signature is not dated; the signer is not registered; the petition does not include the name of the signer where the signature is not sufficiently legible for identification; and the signature is not made by the person whose signature it purports to be.

Registrar’s Preliminary Determination

After the Registrar’s initial review, it was determined that only seven of the 16 challenges were valid. The Registrar’s preliminary report indicated that two of the signatures challenged were invalid because the signers were not registered to vote at the address listed on the petition, at the time the petition was signed; two of the signatures challenged were invalid because they belonged to signers that were not registered; one of the signatures challenged was invalid because the name of the signer was illegible; one of the signatures challenged was invalid because it was not dated; and one of the signatures challenged was invalid because the signer’s voter registration was

designated as inactive at the time the petition was signed. This left Ms. Rhodes' nominating petition with 13 valid signatures, three signatures over the number required for ballot access.

September 1, 2020 Pre-Hearing Conference

Pursuant to Title 3 D.C.M.R. § 415.1, the OGC convened a pre-hearing conference (teleconference) on Tuesday, September 1, 2020. Ms. Henderson and Ms. Rhodes appeared *pro se*. At the start of the hearing, the Registrar read her preliminary report into the record, and informed the parties that Ms. Rhodes qualified for ballot access, because her nominating petition contained 13 valid signatures, three signatures over the number required for ballot access. Mr. Rhodes did not object to the Registrar's preliminary determination.

Ms. Henderson objected to the Registrar's preliminary determination, and alleged that there were several fraudulent signatures on the Petition. Ms. Henderson asserted her objection to the following signatures: page 1 (lines 3-5) and page 2 (lines 2, 4,5,7 and 10). DeAnna Smith ("Ms. Smith"), Assistant Registrar of Voters, informed Ms. Henderson that she would recheck the validity of each signature, which she did during the pre-hearing conference. Ms. Henderson requested an electronic copy of each signature challenged, so that she could personally compare them with the signatures on the petitions. She also requested proof of address for one challenged signature (page 2, line 7).

Ms. Henderson informed Ms. Jennings that once she reviewed the documents from Ms. Smith she would decide whether or not she would appear before the Board, to appeal the Registrar's findings. She never followed up with Ms. Jennings concerning her decision to appear before the Board. However, both parties had previously been informed that if they were unable to come to a mutual agreement at the pre-hearing conference, they had the option to appear before the Board on September 2, 2020.

September 2, 2020 Board Hearing

On September 2, 2020, the Board remotely convened a Special Board Meeting, and Ms. Henderson and Ms. Rhodes appeared *pro se*. At the start of the hearing, the Registrar presented the Board with her preliminary determination that Ms. Rhodes qualified for ballot access, because her Petition contained 13 valid signatures, three more than the number required for ballot access. Ms. Rhodes did not object to the registrar's Preliminary report.

Ms. Henderson reiterated her previous objections to the signatures located on page 1 (lines 3-5) and page 2 (lines 2, 4, 5, 7 and 10). The Registrar informed the Board that the signatures, as well as the address had been verified as valid by her. She also informed the Board that Ms. Smith rechecked the signatures in real-time during the pre-hearing conference. As a result, Ms. Henderson's challenges remained unsubstantiated. Ms. Henderson brought up additional signature challenges, however the Registrar pointed out that those issues were not raised during the pre-hearing conference, so the Board did not consider them.

Terri Stroud ("Ms. Stroud"), General Counsel, recommended that the Board grant Ms. Rhodes ballot access, in the contest for the Office of Advisory Neighborhood Commissioner for Single Member District 5D01. The Board unanimously accepted Ms. Stroud's recommendation, and Ms. Rhodes was granted ballot access.

Discussion

During the pre-hearing conference, Ms. Henderson argued that the following signatures should not have been deemed valid by the Registrar: page 1 (lines 3-5) and page 2 (lines 2, 4, 5, 7 and 10). During the hearing, Ms. Smith checked the validity of each challenged signature listed above, as well as the address that was challenged by Ms. Henderson (page 2, line 7). Ms. Smith used the agency's voter registration system to conduct the analysis in real-time, and informed Ms.

Henderson that the signatures, as well as the address were in fact valid. Immediately following the pre-hearing conference, Ms. Smith also sent Ms. Henderson electronic copies of all the challenged signatures, along with the proof of address documentation.

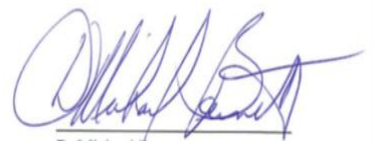
When Ms. Henderson appeared before the Board, she again reiterated her concerns about signatures listed above. However, she provided no proof, evidence or articulable facts to substantiate her objections to the challenges deemed invalid by the Registrar. As a result, the Registrar's preliminary determination remained unchanged. The Registrar reaffirmed her position that Ms. Rhodes qualified for ballot access because she had 13 valid signatures on her Petition, three more than required for ballot access.

Conclusion

For the reasons indicated above, it is hereby:

ORDERED that candidate Sebrena Rhodes is granted ballot access for the Office of Advisory Neighborhood Commissioner for Single Member District 5D01, in the November 3, 2020 General Election.

Date: September 4, 2020

A handwritten signature in blue ink, appearing to read "D. Michael Bennett", written over a horizontal line.

D. Michael Bennett
Chairman
Board of Elections